

Subj: final changes on the livery rules

Commissioners –

Here are some updates on the Street Hail Livery rules and the plan for Thursday's meeting. The meeting will begin promptly at 9am – breakfast will be available at 8:30 – and it will take place at Brooklyn Borough Hall.

Please read this email – it describes what I think/hope will be the final changes to the proposed rule (changes made in response to concerns raised by various Commissioners) – and the last paragraph describes the procedure for the meeting itself.

The accessibility issue:

I think we can all agree that the thorniest sub-topic in the Street Hail Livery rules is the accessibility issue. Most of you were unhappy with the provisions in the originally published rules that would have required paratransit bases to obtain HAIL licenses. We have all been discussing various alternatives -- and while I think we've come up with a good compromise (described below), I also think the best course is to defer this issue for the moment. Accordingly, the rule on the agenda for Thursday will NOT include any of the accessibility provisions we have been discussing.

Looking ahead: I do believe we will need to address this issue, most likely at our May meeting. My goal here is to ensure that we meet the State law requirement that 20% of the HAIL licenses go to accessible vehicles without causing a shortage of non-accessible HAIL licenses. Over the past weeks, the staff has developed a two-part solution: (1) require each HAIL base to affiliate a minimum number of accessible vehicles (this requirement would kick in some months down the road – as Frank has pointed out, the market may deal with accessibility on its own, and we should leave room for that); and (2) allow (but don't require) accessible vehicles to double-affiliate with a HAIL base and a paratransit base. (Please note the difference between this proposal and the proposal that appeared in the originally published rules which mandated the involvement of the paratransit bases.) I think this is the best idea so far for achieving our goal, and it has the support of the Livery Base Owners Coalition, which represents the livery bases that expect to get the HAIL licenses. But I reiterate: I recognize that there is a diversity of views on this, and am willing to take additional time to work with stakeholders to explore other possible solutions – so we will defer adopting any provision along these lines for the time being.

Enforcement against illegal street-hails:

We also all agree on the need for tough enforcement against illegal street hails, including violations by "straight plates," by "traditional" liveries that pick up off the street, and by street-hail liveries that pick up in the "yellow zone." As you know, we have greatly increased the size of our enforcement staff (we're now issuing 2,000 tickets and seizing 500 cars a month, up from 400 tickets and 150 seizures a year ago) – and we are continuing (and will continue) to build it further. In addition, we need to ensure that the penalties for those we catch are sufficient.

To strengthen these penalties, Commissioners Carone, DeArcy and Gjonaj have advocated that we should have the ability to suspend the license of a driver who has committed an illegal street hail. Under the City Administrative Code, we already have clear authority to suspend a driver's license after two street hail violations – the proposed rules make it clear that the suspension penalty will extend to street-hail liveries as well as traditional liveries. Our authority to suspend a driver for a single street-hail violation is less clear, and the Law Department advises that the best course is for our rules to allow suspension for a single violation, contingent on the Administrative Code granting authority. We have added a provision along these lines to the proposed rules, and have already begun discussions with the City Council on legislation. We have also added language clarifying our authority to seize vehicles used to commit street-hail violations.

Ensuring that current livery drivers will be able to continue to operate

One issue in the proposed rules has to do with the requirements for a street-hail livery driver. On one hand, we want to ensure a consistent level of service throughout the City, and the best way to do that is to require drivers to get a hack license, which requires passing a test demonstrating English proficiency, knowledge of NYC geography, and knowledge of TLC rules. On the other hand, many of today's livery drivers would have difficulty passing this test, particularly the English proficiency component. The rules as originally published would have allowed current livery drivers to continue to drive street-hail liveries for the next four years; the idea was to establish a four-year phase-in period for drivers to develop sufficient English proficiency to pass the test.

Commissioners Polanco and Gjonaj have expressed a strong concern about this provision, arguing that it will result in many drivers losing their jobs in four years. I know there is a diversity of viewpoints within the Commission, and while I have not spoken to all of you on this point, I think the bulk of Commissioners are comfortable with moving the rules further in the direction of protecting existing drivers. Accordingly, we have revised the proposed rules to permanently "grandfather" existing drivers; new drivers will be required to get a hack license to drive a street-hail livery. I think this is a good compromise between the competing interests here.

Staten Island inspections:

A heads-up: At the meeting, before taking up the street-hail livery rules, we will hear a brief staff presentation on a pilot program to allow livery vehicles based in Staten Island to have their bi-annual inspection conducted in Staten Island rather than at Woodside. Commissioner Arout has been urging this idea for some time, and the staff has now worked through the operational details to the point where I believe it is feasible. However, given the short notice, we will not vote on this on Thursday – we will simply hear the staff presentation (there is no public comment on pilot programs) and then we can vote at the next meeting.

Procedure for the Thursday meeting:

There will be an opportunity for public comment on the street-hail livery rules, and, given the importance of the issue, I expect that many, if not all of you will wish to make a statement. So here is the procedure I will follow: I will make an opening statement, and will recognize any other Commissioner who wishes to make a statement at that time as well; we will then have public testimony (and whatever questions or comments by Commissioners may be prompted by the testimony); then after the public testimony, I will open the floor for debate or statements by Commissioners, before moving for a vote.

OK, see you on Thursday.

David